
April 15, 2015

Committee on Finance
Business Income Tax Reform Working Group
Community Development & Infrastructure Working Group
219 Senate Dirksen Office Building
Washington, D.C. 20510

Dear Co-Chairman Thune, Co-Chairman Cardin, Co-Chairman Heller, and Co-Chairman Bennet and Members of the Working Groups:

On behalf of the members of the Renewable Energy Tax Credit (RETIC) Working Group, we respectfully submit the following comments as you consider tax reform and how RETICs—principally the Internal Revenue Code (Code) Section 48, 25C, and 45 tax credits—may factor into your decisions. The members of the RETIC Working Group are comprised of various professionals in the RETIC industry who work together to discuss and provide recommendations in an effort to resolve technical business and tax issues and to help make the current RETIC tax incentives even more efficient in facilitating the investment in and development of clean, renewable energy resources throughout the country. Our group generally includes developers, consultants, lenders, investors, accountants and lawyers who specialize in the development and financing of renewable energy projects.

As Congress considers tax reform, we understand all options must be considered. Given America's energy needs as part of a comprehensive national energy policy and the positive track record of the RETICs, we are writing to encourage you to:

- Make the 30 percent Section 48 renewable energy investment tax credit an indefinite part of the Code,
- Make the IRC Section 25D residential solar tax credit an indefinite part of the Code,
- Preserve the current law depreciation—Modified Accelerated Cost Recovery System—for renewable energy, and
- Provide for an extension of time to begin construction for purposes meeting the definition of a Qualified facility under IRC Section 45 of the Code.

We appreciate this opportunity to comment on ways to further enhance the good being done by the RETICs.

Background

The Federal government has a wide variety of legislative and regulatory incentives designed to promote all major sources of energy, and renewable energy has been a key component of the nation's energy policy for many years. Well-crafted and efficient federal tax incentives can provide powerful policy mechanisms to promote the nation's energy objectives and leverage private sector investment for the deployment and utilization of new energy resources. Today, federal renewable energy policies are largely carried out through the tax code, and tax incentives have played a vital role in developing new domestic energy resources to power America's long-term economic prosperity and growth.

Renewable Energy Investment Tax Credits (ITCs)

The *Energy Policy Act of 2005* (P.L. 109-58) created a new 30 percent residential ITC (Section 25D) and increased the credit for commercial solar energy systems to 30 percent (section 48). That change applied from Jan. 1, 2006 through Dec. 31, 2007. These ITCs were extended for one additional year in Dec. 2006 by the *Tax Relief and Health Care Act of 2006* (P.L. 109-432). In 2008, H.R. 550 was passed to provide for an eight-year extension of these solar ITCs. The bill was broadly bipartisan with 123 cosponsors, more than 50 of whom were Republicans. The original Republican cosponsor was Rep. David Camp, the former Chairman of the House Ways & Means Committee.

We believe that Section 48 and 25D ITCs have performed as Congress intended, and thus deserves to be retained in their current form. The Solar Investment Tax Credit (ITC) has given American taxpayers a great return on their investment. Since the introduction of the 30-percent commercial (Section 48) and residential (Section 25D) solar ITC in 2006, solar has become a more competitive energy resource as the average price for installed solar has dropped by 73 percent. The solar industry has added more than 150,000 new jobs—a twelve-fold increase since the ITC was implemented in 2006—and now employs more Americans than the coal industry. The solar industry's supply chain has also grown to include 8,000 companies and more than \$66 billion has been invested in the industry by the private sector. A total of 19.5 gigawatts (GW) of solar capacity (roughly equivalent to six coal power plants) have been installed and 570,000 American homes have gone solar, helping families manage their energy costs. By the end of 2015, we expect 28 GW of solar capacity to have been installed on American soil—enough domestic energy to power more than 5.5 million homes. Most importantly the tax policy certainty given to the industry with the eight-year extension of the ITC in 2008 has helped drive down consumer costs to the point where every tax dollar devoted to the ITC has received a higher return to the U.S. Treasury on its investment than the year before.

Section 48 Commercial ITC

Under existing law, the 30 percent Section 48 commercial ITC is scheduled to be reduced to 10 percent for property placed in service after Dec. 31, 2016. The commercial ITC is claimed by businesses and business owners that own and use in a trade or business this ITC-eligible property, including a number of technologies such as concentrating solar power (CSP), photovoltaic (PV) solar, solar heating and cooling, and qualified small wind energy property.

Since 2010, the 30 percent commercial ITC has led to almost 7,000 MW (1,435 MW of CSP and 5,565 MW of PV) of installed utility-scale solar and over 2,000 MW of installed commercial-scale solar. In addition, third-party lease developers, who install solar on homes and businesses, use the commercial ITC and have dominated the residential markets in many of the top solar states in recent years. Third-party financing mechanisms and the drop in prices has enabled 640,000 homes and businesses to go solar and led to 97,000 installer jobs. Should a tax reform package not include the 30 percent commercial ITC, utility-scale developers may be hit the hardest. Industry experts predict that if the commercial ITC is allowed to drop to 10 percent, only 1,000 MW of utility-scale PV solar will be installed in 2017—a sharp decline from the 7,000 MW of utility-scale PV solar expected to come online in 2016.

Section 25D Residential ITC

Under current law, the Section 25D residential ITC is not allowed for property placed in service after December 31, 2016. The residential ITC is taken by individuals that incur costs in connection with residential qualified energy efficient property such as solar electricity generating systems and solar water

heating systems. Eliminating the residential ITC would likely discourage homeowners from purchasing solar systems and would decimate a large portion of the solar industry that relies on homeowner purchases as its business model. These small businesses, which account for a very significant and growing portion of the job growth in the industry in recent years, fuel a nationwide supply chain here in the U.S., which manufactures panels, inverters, racking systems, plumbing, and other related components that comprise an installed residential PV or solar heating system, meaning the impact of eliminating this credit would be far-reaching and would hurt small businesses and jobs throughout the country.

Furthermore, less than half the states in the U.S. allow third-party solar power purchase agreements or leases based on electrical output, and many of these states only allow third-party PPAs in certain jurisdictions. Thus, in states or communities in which third-party PPAs are not allowed, and in the absence of the Section 25D ITC, individuals interested in installing solar would have to buy a system without any federal incentives. While the cost of solar has decreased dramatically, it can still be cost prohibitive for many individuals to finance the purchase of a solar system upfront, especially without any federal incentives. Eliminating the Section 25D Residential ITC and preventing residential customers from using the ITC after 2016 will force many residential users to choose between either purchasing a system outright or forgoing installing solar altogether. It will also force out of business many small installers and the companies that comprise their supply chains.

Finally, individual taxpayers should have the freedom to choose where their electricity comes from, and how they can save money on their monthly electricity bills. Yet, by eliminating or reducing the residential ITC, the proposed legislation impedes consumers' ability to choose their electricity source and reduces competition among electricity providers and energy resources.

Modified Accelerated Cost Recovery System (MACRS)

Current Law

Like many other businesses across the nation's economy, renewable energy companies benefit from the Modified Accelerated Cost Recovery System (MACRS), which allows businesses to deduct the depreciable basis of energy property over five years, under IRC Section 168(e)(3)(B)(vi). Renewable energy projects have generally been able to use the "200 percent declining balance" method.

MACRS is an essential component to renewable energy project financing

MACRS' acceleration substantially reduces the time period in which capital expenditures are recovered, which is especially important for renewable energy projects where high capital costs are generally incurred up front. Again, when renewable energy must essentially cover the cost of its "fuel" 100 percent up front as compared to a thermoelectric plant, accelerated depreciation is nothing more than a proper means of leveling the playing field. Therefore, it is appropriate to apply a front-weighted depreciation treatment such as MACRS to renewable energy property.

In addition, MACRS' faster depreciation may not only lower the risk premium, thus making the renewable energy investment more attractive to the capital markets, but with that faster return of capital comes the opportunity to recycle that capital into other projects sooner, thus increasing the multiplier effect of the original investment and leading to even greater economic development and job growth. In the renewable energy industry, this faster return of capital has helped increase the levels of private investment in renewable energy while lowering costs for consumers and stimulating the economy with real job growth. Without MACRS, it will take significantly longer for an investor to recover their

investment, which means the comparable risk-free rate for the investment will go up, necessitating an increase in the required yield for the project, making it harder to finance than other types of projects.

Furthermore, given the impact that eliminating MACRS would have on renewable energy projects, the ITC would actually need to be significantly increased to continue to attract private investors to continue to provide the financing critical to most renewable energy projects.

Section 45 Renewable Energy Production Tax Credit (PTC)

In addition to the ITC, the Section 45 renewable energy production tax credit (PTC) has been a key component of federal renewable energy policy since 1992. The most prominent technology utilizing the PTC is wind power, and in the past two decades, the PTC and ITC have been critical for the following wind power achievements:

- Installing enough American wind power capacity to power the equivalent of more than 15.5 million homes;
- Providing more than 30 percent of all new U.S. power capacity in the last five years;
- Driving an average of \$15 billion of private investment annually in each of the past five years;
- Building more than 550 wind energy-related manufacturing facilities across 43 states;
- Growing the wind energy workforce to 50,500 direct employees; and
- Driving down the cost of wind power by 43 percent between 2008 and 2012, according to the U.S. Department of Energy.

Given this track record, we urge you to provide an extension of time to begin construction for purposes of meeting the definition of a Qualified facility under the PTC program. A recent Navigant Consulting study found that a four-year PTC extension would create and save 54,000 American jobs, including growing the wind manufacturing sector by one-third. In contrast, the study found that if the PTC were allowed to expire, wind industry jobs would be cut in half, including a one-third cut to American wind manufacturing jobs and two-thirds drop in private investment in the industry.

Conclusion

Effective federal tax policy can yield significant energy and economic policy benefits. We welcome the certainty that tax reform could provide for the renewable energy industry. Nevertheless, eliminating the ITC, MACRS for renewable energy properties, and PTC would significantly threaten the renewable energy industry. Moreover, it would limit American consumers' choices to meet their energy needs. Any tax reform legislation or proposal should include an indefinite extension of the 30 percent ITCs, MACRS for renewable energy properties, and an extension of the PTC.

In addition to these proposals, we recognize that there are ways to make the RETCs work even better. Addressing technical matters is the central purpose of the RETC Working Group and its members are dedicated to that goal. The RETC Working Group has responded to requests from Treasury, the IRS, and the U.S. Department of Energy with recommendations to enhance the RETCs' ability to finance renewable energy as a key component of the nation's energy policy. All of the RETC Working Group's comments regarding these issues, as well as many others, can be found on our website at www.renewableenergyworkinggroup.com. We would be happy to meet with you to discuss any of our comments in further detail.

THE RETC WORKING GROUP

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